IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) S.B. CIVIL WRIT PETITION NO. 4332/2005
(Motilal Vs. State of Rajasthan & Ors.)

(2) S.B. CIVIL WRIT PETITION NO. 4335/2005
(Pradeep Panchori Vs. State of Rajasthan & Ors.)

(3) S.B. CIVIL WRIT PETITION NO. 4329/2005
(Jitendra Trivedi Vs. State of Rajasthan & Ors.)

(4) S.B. CIVIL WRIT PETITION NO. 4330/2005
(Harshendra Chobbisa Vs. State of Rajasthan & Ors.)

(5) S.B. CIVIL WRIT PETITION NO. 4331/2005
(Ram Kishore Vs. State of Rajasthan & Ors.)

(6) S.B. CIVIL WRIT PETITION NO. 4333/2005
(Goverdhan Singh Vs. State of Rajasthan & Ors.)

Date of Order : 12/01/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Arjun Purohit for the petitioners.
Mr. Rameshwar Dave, Dy. Govt. Advocate for the State.

BY THE COURT:-

I have heard learned counsel for the parties.

By these six writ petitions under Article 226 of the Constitution of India, the petitioners have impunged the order dated 13.7.2005 passed by Chief Executive Officer, Zila Parishad, Dungarpur (for short 'the CEO, Dungarpur' hereinafter)

whereby the petitioners have been transferred from Panchayat Samiti Sagwara to Panchayat Samiti Simalwara and Aspur.

Since all these writ petitions involve common question of law and facts and therefore, with the consent of learned counsel for the parties, the writ petitions are heard and decided together.

It is contended by learned counsel for the petitioners that the controversy involved in the instant writ petition stands covered by the decision of this Court in Bhupendra Rawat Vs. State of Rajasthan and Ors. S.B.Civil Writ Petition No.4334/05 decided on 23.11.2006.

By the order impugned dated 13.7.2005 Annex.1, the CEO, Dungarpur transferred the petitioners as Gram Sevak cum Officiating Secretary from Panchayat Samiti, Sagwada to Panchayat Samiti, Simalwara and Aspur. The said order is said to have been passed in view of the decision taken by the Establishment Committee/ Standing committee of the Zila Parishad, Dungarpur.

It is contended by learned counsel for the petitioners that the order impugned dated 13.7.2005 has been passed in

violation of Rule 289 of the Rajasthan Panchayati Raj Rules, 1996 (for short 'the Rules of 1996 hereinafter) which prescribes that the name of the employee desiring transfer or desired to be transferred within the district shall be communicated to the District Establishment Committee by the Panchayat Samiti and such an employee shall be transferred by the Panchayat Samiti or Zila Parishad concerned on the recommendation of the District Establishment Committee.

Learned counsel for the petitioners further submits that the case of the petitioners for transfer was never intimated to the District Establishment Committee by the Panchayat Samiti and therefore, there was no initiation for transfer as required under Rule 289 of the Rules of 1996. This fact pleaded in the writ petition has not been specifically denied by the non-petitioners. Thus, the order impugned passed by the CEO, Dungarpur dated 13.7.2005 transferring the petitioners is contrary to the provisions of Rule 289 of the Rules of 1996 as there was no initiation for transfer of the petitioners at the behest of the Panchayat Samiti, Sagwada as required under Rule 289 of the Rules of 1996. Therefore, the order impugned being illegal deserves to be quashed.

In the result, all the six writ petitions are allowed.

The order impugned dated 13.7.2005 passed by CEO, Dungarpur Annex.1 is hereby quashed qua the petitioners Motilal, Pradeep Panchori, Jitendra Trivedi, Harshendra Chobbisa , Ram Kishore and Goverdhan Singh. The stay petitions in all the six writ petitions stand disposed of. There shall be no order as to costs.

(H.R.PANWAR),J.

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